

To: Giles-AA, Cynthia[Giles-AA.Cynthia@epa.gov]
From: Sussman, Bob
Sent: Tue 3/19/2013 4:03:47 PM
Subject: FW: King Coal Hwy/Buffalo Mtn SEIS (UNCLASSIFIED)

Robert M. Sussman

Senior Policy Counsel to Administrator

Office of the Administrator

U.S. Environmental Protection Agency

Washington DC

(202)-564-7397

From: Sussman, Bob
Sent: Tuesday, March 19, 2013 12:03 PM
To: Sussman, Bob; Garvin, Shawn; Acting Administrator; 'Cynthia Giles'; Stoner, Nancy; Kopocis, Ken; Chester, Steven; Early, William; Pomponio, John; Giles-AA, Cynthia
Subject: RE: King Coal Hwy/Buffalo Mtn SEIS (UNCLASSIFIED)

Adding Cynthia again.

Robert M. Sussman

Senior Policy Counsel to Administrator

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Washington DC

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From: Sussman, Bob
Sent: Tuesday, March 19, 2013 12:02 PM
To: Garvin, Shawn; Acting Administrator; Cynthia Giles; Stoner, Nancy; Kopocis, Ken; Chester, Steven; Early, William; Pomponio, John
Subject: RE: King Coal Hwy/Buffalo Mtn SEIS (UNCLASSIFIED)

Bob – please make sure you see below. Your call tomorrow afternoon will likely be too late, since the Corps says it will send the SEIS to the FR tomorrow. A couple of options exist at this point:

Ex. 5 - Deliberative Process

If we go ahead with the call, as discussed this morning,

Ex. 5 - Deliberative Process

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Robert M. Sussman
Senior Policy Counsel to Administrator
Office of the Administrator
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Washington DC
(202)-564-7397

From: Garvin, Shawn
Sent: Tuesday, March 19, 2013 10:31 AM
To: Acting Administrator; Sussman, Bob; Cynthia Giles; Stoner, Nancy; Kopocis, Ken; Chester, Steven; Early, William; Pomponio, John
Subject: Fw: King Coal Hwy/Buffalo Mtn SEIS (UNCLASSIFIED)

FYI - Just received this message.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

From: McGugan, Steven T COL LRH
Sent: Monday, March 18, 2013 5:13:16 PM
To: Garvin, Shawn
Subject: King Coal Hwy/Buffalo Mtn SEIS (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

Sir,

I am sending this note to let you know that the King Coal Highway/Buffalo Mountain SEIS is signed and is being entered into the Federal Register this Wednesday, 20 Mar, for publication on Friday, 22 Mar.

There are several reasons this is being done and I wanted to let you know what they are, which is a change to what you and I discussed last week.

1. First reason is to begin the public comment period, which is needed, to see if there are other alternatives, as you and I discussed, so we can begin looking at them as expeditiously as possible. Due to the critical nature of this permit application and the need to ensure any and all possibilities are fully explored, the group decision is to publish the SEIS, receive public and possibly government input of alternatives, and study them together. It could be that multiple discreet alternatives when looked at together, may forge an alternative that is better than any singular alternative.
2. Second reason is to remain on the published timeline, which is, frankly, already way behind schedule. The original time frame for this public notification period was early January 2013. At this time, we are at least 60 days behind on getting public comments. We can not meet both our government due diligence and public expectation if we continue to delay our own timeline. Moving into the public comment period does not prevent us from studying any alternatives that may be proposed, but does allow us, as a government, to fulfill our own published timeline and the expectation of our constituents/customers that expect us to meet the timelines we publish.
3. Finally, we felt it was prudent that we begin the public notification period because continuing to wait on documentation of a possible alternative has NOT//NOT materialized in almost 5 months. If that material is finally made available during the

public comment period, it WILL BE evaluated and diligently reviewed/studied, but to continue to jeopardize our timeline and delaying the public's comment period is not what anyone wishes to do at this point of the review/study period.

We still look forward to meeting with your representatives on Friday to discuss the alternative you wish to present. We will also study any alternative presented, assuming it is presented with all the technical data and correct Federally required calculations, to ensure the minimal amounts of fill are permitted in the final 404 permit.

Please let me know of any questions and thanks for working with us as we undertake this critical task of possibly issuing a 404 permit for mining and future highway development.

Very respectfully,

COL McGugan

STEVEN T. McGUGAN

COL, EN

Commanding

Comm: (304) 399-5395

Cell: **Ex. 6 - Personal Privacy**

NIPR: steven.t.mcgugan@usace.army.mil

Classification: UNCLASSIFIED

Caveats: NONE